

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BUTTE DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

IRA KYRK WESTBROOK,

Defendant.

CR 22–14–BU–DLC

ORDER

Before the Court is United States Magistrate Judge Kathleen L. DeSoto’s Findings & Recommendation Concerning Plea. (Doc. 26.) Because neither party objected, they are not entitled to *de novo* review. 28 U.S.C. § 636(b)(1); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). Therefore, the Court reviews the Findings and Recommendation for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000).

Westbrook is charged by indictment with one count of health care fraud, in violation of 18 U.S.C. § 1347 (Count I), one count of social security fraud, in violation of 42 U.S.C. § 408(a)(5) (Count II), and one count of theft of government property, in violation of 18 U.S.C. § 641 (Count III). (Doc. 2.) Judge DeSoto

recommends that this Court accept Westbrook's guilty plea as to Count II after he appeared before her pursuant to Federal Rule of Criminal Procedure 11. The Court finds no clear error in Judge DeSoto's Findings and Recommendation and adopts them in full, including the recommendation to defer acceptance of the Plea Agreement until sentencing when the Court will have reviewed the Plea Agreement and Presentence Investigation Report.

Accordingly, IT IS ORDERED that Judge DeSoto's Findings and Recommendation (Doc. 26) is ADOPTED in full.

IT IS FURTHER ORDERED that Westbrook's motion to change plea (Doc. 19) is GRANTED and he is adjudged guilty as charged in the Indictment.

DATED this 9th day of August, 2022.



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Dana L. Christensen, District Judge  
United States District Court